

REMARKS

Applicant thanks the Examiner for the thorough consideration given the present application. claims 1-21 are currently being prosecuted. The Examiner is respectfully requested to reconsider the restriction requirement in view of the remarks as set forth hereinbelow.

The Examiner has set forth a restriction requirement with regard to claims 1-21 as follows:

GROUP	CLAIMS	CLASSIFICATION
I	1-8	Photoplethysmographic Apparatus Class 600, Subclass 344
II	9-21	Optical Apparatus Class 600, Subclass 310

Applicant has elected Group I consisting of claims 1-8 for initial examination. However, it is respectfully submitted that the restriction requirement is improper in view of the fact that no serious burden is presented to the Examiner to consider all of the claims in a single application.

The Examiner has indicated that the claims are directed to a combination and subcombination wherein the combination as claimed does not require the particulars of the subcombination as claimed because it does not include a cover member. The Examiner should consider claims 1-21 in a single application.

As set forth in Section 803 of the MPEP, the Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. Two criteria are identified for a proper requirement for restriction:

1. The inventions must be independent or distinct as claimed; and
2. There must be a serious burden on the Examiner if the restriction is not required.

Applicants respectfully submit that a serious burden has not been placed on the Examiner to consider all of the claims in a single application. A review of the subject matter set forth in claims 1-8 would include a review of class 600 subclass 344 and class 600, subclass 310. Thus, a different field of search really does not exist with regard to the claims of the present application.

In order to be responsive to the Examiner's restriction requirement, claims 1-8 have been initially elected. The Examiner is respectfully requested to reconsider the restriction requirement and act on all of the claims in the present application. If the Examiner does persist in the restriction requirement, Applicant reserves the right to file a divisional application directed to the non-elected claims 9-21 at a later date, if desired.

CLAIM FOR PRIORITY

The Examiner has not acknowledged Applicants' claim for foreign priority. The Examiner is respectfully requested to acknowledge Applicants' claim for foreign priority in the next Office Action.

Application No.: 10/713,263
Response dated November 28, 2005
Office Action dated October 27, 2005

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DRAWINGS

The Examiner did not approve the drawings. The drawings comply with US Patent Law. The Examiner is respectfully requested to approve the drawings in the next Office Action.

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INFORMATION DISCLOSURE STATEMENT

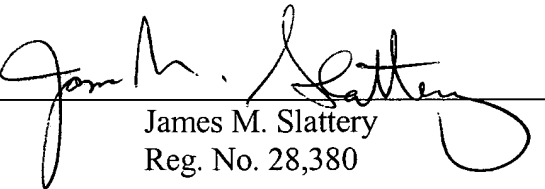
The Examiner has not acknowledged the Information Disclosure Statement filed on November 17, 2003. The Examiner is respectfully requested to acknowledge Applicants' Information Disclosure Statement in the next Office Action.

Favorable action on the present application is earnestly solicited.

Please charge any fees or credit any overpayment pursuant to 37 CFR 1.16 or 1.17 to Deposit Account No. 02-2448.

Respectfully submitted,

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